



## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

**[Docket No. FWS-R8-ES-2013-0072 and FWS-R8-ES-2013-0042; 4500030113]**

**RIN 1018–AY10; RIN 1018–AZ70**

### **Endangered and Threatened Wildlife and Plants; Threatened Status for the Bi-State Distinct Population Segment of Greater Sage-Grouse with Special Rule and Designation of Critical Habitat**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rules; reopening of the comment periods.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on our October 28, 2013, proposed rule to list the Bi-State distinct population segment (DPS) of greater sage-grouse (*Centrocercus urophasianus*)

as threatened under the Endangered Species Act of 1973, as amended, with a special rule. We are also reopening the public comment period on our October 28, 2013, proposed rule to designate critical habitat for this DPS. We are also announcing the location and time of public hearings to receive public comments on the proposals. Finally, we announce a 6-month extension of the final determination of whether or not to list the Bi-State DPS as a threatened species. We are taking this action based on substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the proposed listing, making it necessary to solicit additional information by reopening the comment period for 60 days. We will publish a listing determination on or before April 28, 2015.

**DATES:** The comment periods for the proposed rules published in the **Federal Register** on October 28, 2013 (78 FR 64328; 78 FR 64358) are reopened. We will consider comments received or postmarked on or before [INSERT DATE 60 DAYS AFTER DATE OF FEDERAL REGISTER PUBLICATION]. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section) must be received by 11:59 p.m. Eastern Time on the closing date.

*Public Hearing:* We will hold two public hearings on these proposed rules in Minden, Nevada on April 29, 2014 from 6 to 9 p.m. (Pacific Time), and Bishop, California, on April 30, 2014, from 6 to 9 p.m. (Pacific Time) (see **ADDRESSES**).

**ADDRESSES:**

*Document availability:* You may obtain copies of the proposed rules on the Internet at <http://www.regulations.gov> at Docket No. FWS–R8–ES–2013–0072 (proposed listing with special rule) and Docket No. FWS–R8–ES–2013–0042 (proposed critical habitat), or contact the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office or Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

*Written comments:* You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

<http://www.regulations.gov>. In the Search box, enter FWS–R8–ES–2013–0072 (proposed listing) or FWS–R8–ES–2013–0042 (proposed critical habitat), which are the docket numbers for these rulemakings. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate the document. You may submit a comment by clicking on “Comment Now!”

(2) *By hard copy for the proposed listing:* Submit by U.S. mail or hand delivery to: Public Comments Processing, Attn: FWS–R8–ES–2013–0072; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203. *By hard copy for the proposed critical habitat:* Submit by U.S. mail or hand delivery to: Public Comments Processing, Attn: FWS–R8–ES–2013–0042; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Information Requested** section for more information).

*Public hearing:* The April 30, 2014, public hearing will be held at the Tri-County Fairgrounds, Home Economics Building, Sierra Street and Fair Drive, Bishop, CA 93514. The April 29, 2014, public hearing will be held at Carson Valley Inn, Valley Ballroom, 1627 U.S. Highway 395 North, Minden, Nevada 89423. People needing reasonable accommodations in order to attend and participate in the public hearing should contact Edward D. Koch, State Supervisor, Nevada Fish and Wildlife Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** For information on the proposed listing rule, proposed special rule, and proposed critical habitat designation, contact Edward D. Koch, State Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; or facsimile 775–861–6301. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On October 28, 2013, we published a proposed rule to list the Bi-State DPS of greater sage-grouse in California and Nevada as a threatened species under the Endangered Species Act of 1973, as amended (Act) (78 FR 64358), with a special rule under section 4(d) of the Act. We concurrently published a proposed rule to designate critical habitat (78 FR 64328). For a description of previous Federal actions concerning the Bi-State DPS, please refer to the October 28, 2013, proposed rules. Both proposed rules opened a 60-day comment period scheduled to end December 27, 2013; however, we received requests to extend the public comment periods on the proposed rules. In response to those requests, we announced on December 20, 2013, an extension of the comment periods for an additional 45 days (78 FR 77087) to February 10, 2014, to allow additional comment.

Section 4(b)(6) of the Act requires that we take one of three actions within 1 year of a proposed listing: (1) Finalize the proposed listing; (2) withdraw the proposed listing; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination.

Since the publication of the proposed rules, there has been substantial disagreement regarding the interpretation of the best available information related to Bi-State DPS population trends and threats (e.g., from livestock grazing); the consideration given to completed, ongoing, and planned conservation actions; application of the 4(d) special rule; and data layers used for mapping proposed critical habitat. Differing interpretations of the existing population data, in addition to new U.S. Geological Survey (USGS) population information, have led to a significant disagreement regarding the current status of the species. In particular, some commenters and peer reviewers raised questions regarding the interpretation of scientific information used in the proposed listing rule and scientific literature that was not yet available for use in our analysis. For example, since publication of our proposed listing rule, the USGS has developed an integrated population model that is generating new information valuable for our listing determination. Some commenters stated that our science was flawed and that there are more sage-grouse in the Bi-State area today as opposed to the past, whereas other commenters (including peer reviewers) believe there is a declining trend and continuing threats. It is evident in the comment letters received that analysis or interpretation of data vary between state, agency, public, and peer reviewers.

As a result of these comments and peer reviews, there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to our listing determination. Therefore, in consideration of these disagreements, we have determined that a 6-month extension of the final determination of this rulemaking is necessary, and

we are hereby extending the final determination for 6 months in order to solicit information that will help to clarify these issues and fully analyze this information. As noted in the proposed listing rule (78 FR 64358), we were previously required by statutory deadline to make a final decision on the Bi-State DPS listing no later than October 28, 2014. Therefore, with this 6-month extension, we will make a final determination on the proposed rule no later than April 28, 2015. In conjunction with the proposed rule to list the Bi-State DPS, we also proposed a special rule under section 4(d) of the Act that would tailor the prohibitions of the Act to specifically address the threats to the DPS (78 FR 64358). Because this special rule is contingent on the Bi-State DPS listing, our final decision for this special rule will also be delayed until we make a final listing determination for the DPS. Similarly, because critical habitat designation is contingent on the Bi-State DPS listing, our final decision for the proposed critical habitat will also be delayed until we make a final listing determination for the DPS.

### **Information Requested**

We will accept written comments and information during this reopened comment period on our proposed listing (and special 4(d) rule) and designation of critical habitat for the Bi-State DPS that published in the **Federal Register** on October 28, 2013 (78 FR 64328; 78 FR 64358). We will consider information and recommendations from all interested parties. We intend that any final action resulting from the proposal be as accurate as possible and based on the best available scientific and commercial data.

We are particularly interested in new information and comments regarding:

(1) Whether there is scientific information in addition to that considered in our proposed rules that may be useful in our analysis.

(2) New information on or analysis of population trends in the Bi-State area, including data specific to population vital rates.

(3) The scope of the proposed 4(d) rule.

(4) Rangeland conditions and the effects of livestock grazing within the Bi-State area.

(5) Data specific to document the need for addition or removal of areas identified as proposed critical habitat.

(6) Spatial data depicting meadow/brood-rearing habitat extent and condition.

(7) Data specific to recreational use in the Bi-State area and potential adverse or beneficial effects caused by such use.



If you submitted comments or information on the proposed rules (78 FR 64328; 78 FR 64358) during the initial comment period from October 28, 2013, to February 10, 2014, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determinations. Our final determinations concerning the listing, special rule, and critical habitat will take into consideration all written comments and any additional information we receive.

You may submit your comments and materials concerning the proposed rules by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the website. We will post all hardcopy comments on <http://www.regulations.gov> as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed listing, special rule, and proposed critical habitat will be available for public inspection on <http://www.regulations.gov> at Docket No. FWS–R8–ES–2013–0072 and Docket No. FWS–R8–ES–2013–0042, or by appointment, during

normal business hours, at the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rules on the Internet at <http://www.regulations.gov> at Docket No. FWS–R8–ES–2013–0072 and Docket No. FWS–R8–ES–2013–0042, or at the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

#### **Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Date: March 25, 2014

Daniel M. Ashe

Director, U.S. Fish and Wildlife Service

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